



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

OFFICE OF MULTIFAMILY HOUSING
ASSISTANCE RESTRUCTURING

MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN THE
OFFICE OF HOUSING
AND
THE OFFICE OF MULTIFAMILY HOUSING
ASSISTANCE RESTRUCTURING

This Memorandum of Understanding (MOU) documents the framework for the continued working relationship between the Office of Housing (Housing) and the Office of Multifamily Housing Assistance Restructuring (OMHAR) in connection with the restructuring of multifamily mortgages under the Mark-to-Market (M2M) Program.

HUD's M2M Program is authorized under Section 511 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA). The purposes of the M2M Program include preservation of low-income rental housing affordability and availability, reducing the long term costs of project-based assistance and minimizing claims to the FHA insurance fund, and establishment and oversight of a national network of Participating Administrative Entities (PAEs) who will be responsible for the day-to-day implementation of the program under HUD's oversight. HUD's implementation of the M2M Program is described in the Regulations in 24 CFR 401 et. seq., and in more detail in the M2M Program Operating Procedures Guide.

Housing and OMHAR agree to the following:

1. OMHAR is responsible for processing, underwriting, issuance of Firm Commitments, and Endorsement of FHA mortgage insurance, and repair escrow administration when Section 223(a)(7) is used to refinance as part of a full debt Restructuring Plan under MAHRA. The Section 223(a)(7) Delegation of Authority is attached. OMHAR is required to comply with all current and future guidance on processing under Section 223(a)(7) issued by the Office of Housing, except to the extent modified by the M2M Program Operating Procedures Guide. A list of these modifications and significant points of coordination between OMHAR and Housing is attached. Any future revisions to the M2M Program Operating Procedures Guide which impact Section 223(a)(7) processing will be agreed to by Housing prior to implementation.
2. OMHAR will be responsible for processing, underwriting, issuance of Firm Commitments, and Endorsement of FHA mortgage insurance, and repair escrow administration when FHA mortgage insurance under Section 223(a)(7) is used to refinance as a condition of approving Section 8 contract renewals down to market without debt restructuring ("OMHAR lite"). Housing may retain this responsibility where appropriate on a case by case basis.
3. OMHAR is required to comply with all current guidance on processing under Section 223(a)(7) issued by the Office of Housing when this delegation is exercised in the context of a Section 8

contract renewals down to market without debt restructuring ("OMHAR lite"). The variations in underwriting standards and priority purchaser rights in a Transfer of Physical Asset, specified in the M2M Program Operating Procedures Guide for full debt restructurings with a Partial Payment of Claim, will not be applicable.

4. This MOU (and any Delegations of Authority to OMHAR) will terminate when OMHAR's statutory authority expires, or when either the Federal Housing Commissioner or the Director of OMHAR determines that it is no longer appropriate to continue the MOU or the Delegations of Authority. OMHAR will not issue commitments within 3 months of expiration of its statutory authority. OMHAR may refer projects to the local Multifamily Hub or Program Center with jurisdiction for commitment processing during the last 3 months of its statutory authority.

5. Applications for Section 223(f) and 221(d)(4) processing in connection with a Restructuring Plan will be processed by the local Multifamily Hub or Program Center with jurisdiction for commitment processing. OMHAR and Housing will develop a process within 90 days to streamline the processing of these applications, using appraisals, Physical Condition Assessments, and other technical analysis provided by the PAE in order to avoid duplicative (and potentially inconsistent) underwriting. OMHAR will assist in coordinating processing when requested by the PAE or the local Multifamily Hub or Program Center.

6. Public entity PAEs qualified as Section 8 contract administrators under the National Housing Act have the option to serve as Section 8 contract administrators for projects subject to a Restructuring Plan. Performance standards and compensation for Section 8 contract administration will be consistent with Housing's normal policies, except to comply with provisions of MAHRA, or the Restructuring Plan. Any such exceptions must be concurred on by both OMHAR and Housing prior to implementation.

7. OMHAR will evaluate requests for Section 8 contract renewals down to market without debt restructuring ("OMHAR lites") pursuant to §524(a)(1) of MAHRA, and Section 401.601 of the Interim Rule. Public entity PAEs qualified as Section 8 contract administrators under the National Housing Act which process such requests will have the option to serve as Section 8 Contract Administrators, subject to Housing's approval of performance and fees. OMHAR will streamline processing for OMHAR lites in which Section 8 contract rents are only nominally greater than market. Further, OMHAR will coordinate with Housing to take appropriate administrative action in cases where a Restructuring Plan is determined to be necessary but the Owner is not cooperative.

8. Housing (or its designated contract administrator) will retain Section 8 contract administration responsibilities (including fund reservations and contract renewals) for Mark-to-Market properties until closing of Restructuring transactions. OMHAR will assist in coordinating the transfer of such responsibilities when requested by the PAE or the local Multifamily Hub or Program Center. Housing will assist OMHAR in developing procedures with HUD's Financial Management Center to execute ACC's and transfer funding when a public entity PAE will serve as the Section 8 contract administrator in accordance with paragraphs 5 or 6 above.

9. OMHAR is responsible for approval of modification of existing mortgages, execution of Risk Sharing Approval letters, requests for Partial or Full Payments of Claim pursuant to §517(a) of MAHRA, any required environmental reviews, approval of Transfers of Physical Assets in accordance with chapter 13 of HUD Handbook 4350.1, and setting of Section 8 contract rents in accordance with §514 and 515 of MAHRA, when necessary as part of a Restructuring Plan under MAHRA. OMHAR is required to comply with all current and future guidance issued by the Office of Housing relevant to these functions, except to the extent modified by the Mark-to-Market Program Operating Procedures Guide. Any future revisions to the M2M Program Operating Procedures Guide which impact any of the procedures identified in this paragraph will be agreed to by Housing prior to implementation.

10. OMHAR will send a copy of all executed Risk Sharing Approval letters to the Multifamily Hub or Program Center, and to the Office of Business Products, and will ensure the HUD 290 Form is completed and distributed.

11. OMHAR will be responsible for administering the ITAG and OTAG Grant Program, but will coordinate and consult with Housing in development of policy decisions and Notices of Funding Availability. Housing concurrence will be required for all policy decisions affecting non-Mark to Market properties.

12. OMHAR will provide closing information and documents to the FHA Comptroller in accordance with chapters 6, 7, 8, and 9 of the Mark to Market Operating Procedures Guide. OMHAR will provide Housing Budget with monthly reports detailing FHA and Section 8 data from OMHAR's production pipeline; specific details of the report content and format will be finalized within 90 days per paragraph 16 below. A draft is attached.

13. OMHAR will provide notice of Section 516 "bad owner" decisions, and will consult with the FHA Commissioner's Office in cases where portfolios of multiple projects are affected in order to assure coordination of related administrative actions. OMHAR will perform Rent Comparability Reviews to establish market rents for such projects when requested by Housing. Detailed procedures to facilitate sales will be developed in accordance with paragraph 16 below.

14. Housing will issue a Mortgagee Letter to Servicing Mortgagees stating that an executed Mark to Market Restructuring Commitment documents HUD's approval of payoff or refinancing an FHA insured mortgage, and that the Servicing Mortgagee should provide OMHAR payoff balances and information regarding the Mortgagee of Record.

15. OMHAR and Housing will continue to cooperate in any training of HUD staff, PAE's, or industry groups, by inviting, and participating as requested and practicable.

16. Revisions to this MOU may be made from time to time by mutual agreement between Housing and OMHAR. An amendment will be drafted within 90 days to address the following issues:

- a) Section 8 Renewal/Non-renewal decisions in cases where Owners refuse or are otherwise unable to execute Restructuring Plans.
- b) Expedited processing procedures for Section 221(d)(4) and 223(f) mortgage insurance

applications. Housing and OMHAR will ensure that these procedures are consistent with Housing's implementation of the Multifamily Accelerated Processing (MAP) system and the MAHRA statute.

- c) Facilitating transfers of Mark to Market Properties.
- d) Details of OMHAR's monthly reporting to Housing Budget.

17. A separate Memorandum of Understanding addressing the protocol for payment of PAE vouchers will be executed not later than March 31, 2000.

By: _____/S/_____
Assistant Secretary for Housing-
Federal Housing Commissioner
Date: _____3/24/00_____

By: _____/S/_____
Director, Office of Multifamily Housing
Assistance Restructuring
Date: _____3/24/00_____